

# In The United States District Court For The Middle District Of Pennsylvania

Gartor Kiki Brown

V.

LT. Gildea et. al.

FILED  
SCRANTON

MAR 19 2020

NO. 18-CV-1527

PER

DEPUTY CLERK

## Brief To Plaintiff Motion To Compel Discovery Argument

Generally, courts afford considerable latitude in discovery in order to ensure that litigation proceeds with "the fullest possible knowledge of the issues and facts before trial." *Hickman v. Taylor*, 329 U.S. 495, 501, 67 S.Ct. 385, 91 L.Ed. 451 (1947). Brown claims video recording outside the cell or Pod for which the incident took place is highly relevant to the subject matter as defendants & the Plaintiff tell two different story; the Court could use the footage as a fact finder. E.g. in Fochtman's interrogatories, he claims he exchanged Brown's sheets, that Brown only had a bloody nose & refused medical treatment & that Brown only asked to move to see the T.V. Brown claim their was no t.v. on the Pod at the time & Fochtman was not the one to change his sheets, Jumper, boxers, illness Johnston, that is of high relevance & it defendants distort the tale knowing it would be crucial evidence. Despite Brown putting them on notice to preserve the tale, then Brown could request a sanction for spoliation under Rule 37(e).

Brown argues that color pictures are also of relevance, defendants send Brown pictures in black & white to prevent him from seeing anything, was the picture taken with the inmate clothing on or off, are their discoloring, inflammation, lumps, abrasion marks, cuts etc.

The transcript of the Deposition is also in itself relevant for viewing & copying, as it is Plaintiff right to cite to what was said in his deposition & produce it as exhibits.

Plaintiff predicates that the IPC team documents in full is of relevance, as in any claims under the 008 it is important to know if the person had any prior, did defendants their self document serious acts of violence by the inmate, was the inmate even classified to be housed with other inmates, was the red flags that officials then self acknowledged but ignored, did the inmate warn officials & they ignored it; Brown claims the IPC team document of the inmate & cell history, the inmate misconduct history & grievance history would tell or help the courts decide this case.

Plaintiff claims the Pennsylvania Additional Classification Tool Policy or (P.A.C.T.) & the investigation files of other 001 or 008 claims against inmate Allen is highly relevant because it would show if defendants went against any classification policy in housing Brown with the 11er & if there is a pattern of prior claims against the inmate.

Plaintiff claims all investigation files of defendants prior or allege misconduct is relevant to his claim; such as any prior incident of supporting or ignoring violence or 001 or 008 claims can not be ignored, is the defendant consistently under investigation for other alleged wrong doing, this would inform the Plaintiff as to sensitive material or any pattern of wrong doing.

Plaintiff also claim all relevant information was blacked out in which he could not see what was on the page. Relevance for discovery purposes is defined broadly. The Rules permit discovery re garding any non privileged matter that is relevant to any party's claim or defense. Relevant information need not be admissible at the trial if the discovery appears reasonably calculated to lead to the discovery of admissible evidence. The burden is upon the party objecting the discovery to state the grounds for the objection with specificity. Fed. R. Civ. P. 33(b)(4) *Johnson v. Albert Einstein Med. Ctr.*, 164 F.R.D. 412, 417 (E.D. Pa. 1996). "mere recitation of the familiar litany that an interrogatory or a document production request is overly broad, burdensome, oppressive and irrelevant will not suffice." (Quoting *Joseph V. Harris Corp.*, 167 F.2d 985, 992 (3d Cir. 1982))

# In The United States District Court For The Eastern District Of Pennsylvania

Gartor K. Brown

V.

NO. ~~2018-00000~~ 18-cv-1527

LT. Gildeda et al.  
~~et al.~~

## Plaintiff's Request For Production OF Documents

Pursuant to Rule 34 of The Federal Rules Of Civil Procedure, Plaintiff requests that Defendant ~~Produce~~ <sup>Produce</sup> ~~the following~~ <sup>the following</sup> documents to inspect or test, sample the following items in the responding Party's possession, custody, or control: Please forward to Gartor Brown Pro Se Plaintiff, within thirty (30) days from service of this Request.

1) "Documents" as in original and any non-identical copy of any written, printed, typewritten, recorded or graphic matter, however produced or reproduced, including correspondence, medical records, telegrams, other written communications, tapes, annual reports, prospectuses, accountant's work sheets, contracts, deeds, agreements, draft agreements, schedules, notes, including handwritten notes from staff meetings, memoranda, analyses, projections, work papers, studies, surveys, investigations, diaries, calendars, appointment books, films, photographs, minutes of meetings, books of account, inventories, spreads, ledgers, invoices, receipts, confirmation slips, statements of accounts, checks, drafts, logs, personal financial statements, corporation policies, checking and savings account statements in custody or control of defendants, former agents and employees, and of all persons acting or purporting to act on his behalf or and of them, and electronically stored information, any designated tangible things.

2) If You object to any of the requests herein, whether in whole or in part, on the grounds that the information sought herein is privileged or confidential (hereinafter "Privileged"), You shall produce as much of the documents, or as much of the documents and/or information concerned, as to which no Privilege is claimed.

(a) Identify the Privileged document, portion of document and/or information

(b) State specifically the exact Privilege claimed, together with such facts as will enable the court to determine the merit of the claim or privilege.

3) "You" and "Your" refer to defendants and or his attorney, and or any investigator performing work on behalf of defendants in connection with this case.

4) When a document is required to be identified, state with respect to each document the following information, to the extent it exists: (a) the date; (b) the author; (c) a description of the document (e.g. invoices, letters, etc.); (d) the address; (e) persons or entities, other than the addressee who received copies, or were identified on the document as to receive copies; (f) the custody of the document; (g) the present location of the document; (h) if the document has been lost or destroyed, together with a description of all known circumstances pursuant to which the document was lost or destroyed;

5) Where a person is required to be identified, state his or her name, his or her present or last known home address, the name and address of his or her current or last known employer and his or her job classification with that employer, and his or her employer and job classification at the time of the events referred to in the complaint.

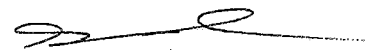
### Request For Production

1) Any statements concerning this lawsuit or its subject matter made by any party regarding this matter or any person who is a witness in this matter.

(EXHIBIT A)

②

- 2) Any statements concerning this lawsuit or its subject matter made by an expert within your knowledge.
- 3) Any photographs concerning this lawsuit or its subject matter within your knowledge.
- 4) Any diagram or drawings concerning this or its subject matter within your knowledge.
- 5) Any reports provided by your investigator including loss readings.
- 6) The entire claims and investigative file of defendant's or his or their attorney, or any other organization related thereto, concerning the incident involved in this lawsuit, excluding references to mental impressions, conclusions or opinions representing strategy or tactics.
- 7) All income tax returns of defendant's for the period from 2016 to Present.
- 8) All wage/wage loss statements, if any, for the period from 2016 to Present.
- 9) All doctor bill/receipts if any pursuant to any defendant injuries pursuant to this lawsuit.
- 10) Any other medical or economic records or reports regarding Plaintiff's alleged injuries.
- 11) Any and all employment records of defendant's that are relevant to any claims made in Plaintiff's Complaint.
- 12) Any documents which relate to or describe any or relied in preparation for trial in this case.
- 13) Any and all news articles concerning any event or party or matter involved in Plaintiff's Complaint.
- 14) All X-rays taken in this matter.
- 15) Produce all medical records from his stay at SCI Huntington.
- 16) All transcripts of deposition taken.



1/3/19

(EXhibit <sup>B</sup>~~200~~)

16. All transcripts (sic) of Deposition taken (sic).

**RESPONSE:**      **OBJECTION.** Defendants OBJECT to this request as it is overly broad, unduly burdensome, and not proportional to the needs of this case. Defendants further OBJECT in that the request is confusing as worded. Specifically, it is unclear and confusing as to what the Plaintiff is specifically requesting. By way of further answer, he does not specify a time, place, or incident in order for Defendants to know what he requests.

Without waiving the objections, only the deposition of Plaintiff has been conducted. Copies of the transcript must be purchased from the court reporting agency. To contact the court reporting agency to inquire about cost, please write to Sargent's Court Reporting Services, Inc.; 210 Main Street, Johnstown, PA 15901, and include the information for the deposition: Deponent: Gator Kiki Brown; Date: August 5, 2019; Reporter: Lindsay Richardson.



# In The United States District Court For The Middle District Of Pennsylvania

Gartor kiki Brown

(Exhibit C)

V.

NO. 3:18-CV-01527

LT. Maxwell et al.,

**FILED  
SCRANTON**

MAR 19 2020

Per.

DEPUTY CLERK

## Plaintiff's Request For Production Of Documents

Pursuant to Rule 34 of the Federal Rules Of Civil Procedure, Plaintiff requests specific documents are produce by defendants Maxwell, Plocinik, Johnston, Fochtman, Chilcote, Harris, Kendrick, Heaster for inspection and copying.

- 1) First & last name of the inmate he was housed with on Unit B Block A from 2/3/18 through 2/8/18 at SCI Huntingdon in cell 108.
- 2) Plaintiff seeks for inspection & copying from the DOC defendants all Pennsylvania Adelitive Classification Tool Policy or (PACT) Policy, including but not limited to classifying & housing inmates.
- 3) Plaintiff seeks for inspection & copying all (11.2.1) Policy Manual.
- 4) Plaintiff seeks for inspection & copying all (IRC) documents pursuant to what the IRC team documented while at SCI Camp Hill & most importantly SCI Huntingdon. Plaintiff also seek those documents as to the IRC Documents of inmate Allen same inmate he claim sexually assaulted him or may the inmate have a different government name. Plaintiff seeks the information as to the inmate he was housed with on G-4 in cell 108 from 2/3/18 through 2/8/18 while at SCI Huntingdon in the RHU. Plaintiff seeks full history of IRC documents from the time the inmate entered the DOC to current date.
- 5) Plaintiff seeks for copying all classify classification documents from the "diagnostic center" all psychological testing & integrated case summary of the inmate known as inmate Allen "Same person he claims sexually assaulted him. Plaintiff also seeks the same information for one Gartor kiki Brown."
- 6) Plaintiff seeks Misconduct, grievance, & Criminal record history of the inmate he was housed in cell 108 on B-A in the RHU at SCI Huntingdon from 2/3/18 through 2/8/18.
- 7) Last Plaintiff seeks for inspection & copying all complaints, statements, investigation files of any other inmate or staff that claim that inmate Allen had attempted to or did sexually assault & abuse them or threaten to do as such; any other claims against the inmate pursuant to ADM 001 or 008 Policy.
- 8) Plaintiff also seeks for inspection & copying a statement from Ivan Costillo LS 3066, the State-ment predicated as to what the inmate known about the sexual assault. the statement was confiscated by Ms. Spraker & Mr. Maxwell after Brown gave the statement to his counselor Richards to copy. she then gave it to Maxwell & Spraker, they then confiscated the statement claiming it was a Intina investigation file and Brown could not get a copy.

(EXHIBIT 4)

A review of DOCNET Inmate Query-Cell History for NA6401 Brown shows he was housed in GA1008 cell from 2/3/18 through 2/8/18 with Inmate Allen. Brown was then moved to GD1005 cell on 2/8/18 and has not had a cellmate since.

A review of DOCNET Inmate Query-Cell History for FX1504 Allen shows he was housed in GA1008 cell from 2/3/18 through Present. Brown was moved from the cell on 2/8/18 but Allen has remained celled in GA1008.

A review of Inmate Query-Summary Misconducts shows that NA6401 Brown received a total of 8 Misconducts, none of which were sexual in nature.

✓ A review of Inmate Query-Summary Misconducts shows that FX1504 Allen received a total of 77 Misconducts, with four being for sexual harassment. Two of those four misconducts included indecent exposure.

A review of DC-457 Medical Incident/Injury Report for NA6401 Brown shows that he refused medical treatment.

A review of DC-457 Medical Incident/Injury Report for FX1504 Allen shows he was evaluated by medical and denied any injuries.

A review of the Guard 1 report for February 3 thru February 7 for the Pipe station located in the corner beside GA1008 cell, where Inmate Brown and Inmate Allen were housed during the allegation. This report shows the station was hit at various times within thirty minutes of each other. If there was an altercation this would have been noticed and reported by one of the Officer's conducting the tour and Inmate Brown could have easily reported the incident to the Officer conducting the tour.

A review of Inmate Cumulative Adjustment Records for NA6401 Brown shows multiple entries of him requesting "Z" code and/or attempting to manipulate staff into giving him a "Z" code.

A review of Security Level 5 Housing Unit Exercise, Shower, Shave Sign-Up for GA quad for February 4 thru February 7 2018. This shows FX1504 Allen went to yard on February 5, 6, and 7<sup>th</sup>. Inmate Brown had multiple opportunities to report any issues to staff at this time and if there was physical or sexual assaults taking place he could have refused to leave Allen back in the cell when he was returning from yard.

EOR 2018-HUN-00079 included with this report.

A review of Pennsylvania State Police Report Incident Number PA2018-154001 indicates it is their belief a crime was not committed against Inmate Brown. Inmate Brown did not present to be credible during the interview or present as a legitimate victim. It is believed no assault or rape had occurred and this investigation is unfounded.

# In The United States District Court For The Middle District Of Pennsylvania

(Exhibit D)

Gartor kiki Brown

V.

No. 18 - CV 01527

LT. Maxwell et al.,

## Plaintiff's Interrogatories Combine With Request For Production OF Documents

Pursuant to Rules 33 and 34, Fed. Civ. P., the Plaintiff submits the following interrogatories and requests for documents to defendant Johnston. You are directed to answer each of the interrogatories under oath, and provide the Plaintiff with copies of each of the requested documents. Note c/o Johnston was misspelled as Johnson in Plaintiff's Complaint.

- 1) State the duties of defendant Johnston, a official employed at SCI Huntingdon Correctional Facility, if those duties are set forth in any job descriptions or other documents. Produce them for inspection.
- 2) Mr. Johnston what race are you?
- 3) What do you know about the incidents in Plaintiff's Complaint or Amended Complaint? Can you be specific and can you produce all documents that would help support your response?
- 4) As an extension of question #3) Brown claim between 2/3/18 through 2/8/18 he was housed on G-A in 208 cell with inmate Allen, did you have any encounter with either inmate around this time, if so when, what was your actions? Did you at anytime switch all of Brown's clothing and linens because they had blood on them.
- 5) Did you see to it that Plaintiff received medical attention during an encounter with him on 2/7/18 pursuant to switching his linens?
- 6) On 2/7/18 at anytime were you responsible for punches on G-A, if so at anytime did you not conduct a punch because you was told not to or because you was aware of what was going on in cell 108 in which you tried to avoid?
- 7) As Policy can you state what it is you would have to do if you encounter a inmate on inmate sexual assault by witnessing or by a inmate telling you with whom he is in the cell with while in the RHU, walk me through your Policy?
- 8) Who was your supervisor on on 2/7/18 from Sgt. to LT & so on, did they tell you to switch Brown's linens, what did you tell them, who are your witnesses pursuant to your Predications And if this case were to go to trial? produce all documents.
- 9) Do you think there is a policy where supervisors put clo's of color on a post where they think a constitutional tort is going on, or pending?
- 10) Have you been under investigation for any wrong doing by in house Administration or outside government agency while employed at SCI Huntingdon including but not limited to serious injuries, ignoring inmate on inmate sexual or assault, force, death, searches, also are you currently a defendant in any pending litigation, produce all documents as related.
- 11) Produce all grievances you have written against you by inmates while employed at SCI Huntingdon.
- 12) Do you have a Criminal record?



# In The United States District Court For The Middle District Of Pennsylvania

Garbar Kiki Brown

(EXHIBIT E)

V.

NO. 3:18-CV-01527

LT. Maxwell et. al.,

## Plaintiff's Interrogatories Combined With Request For Production Of Documents

Pursuant to Rules 33 and 34, Fed. R. Civ. P., the Plaintiff submits the following interrogatories and requests for documents to defendants LT. Maxwell and C/O Plocinik. You are directed to answer each of the interrogatories under oath. Separately, and provide the Plaintiff with copies of each of the requested documents or make them available to the Plaintiff for inspection and copying.

1. State the duties of defendant Maxwell and Plocinik both officials at SCI Huntingdon Correctional Facility, if those duties are set forth in any job descriptions or other documents. Produce the documents for inspection.
2. State the names, titles and duties of all staff members at SCI Huntingdon who have responsibility for responding to, investigating or deciding inmates grievances, if those duties are set forth in any Policy, directive, or other documents, Produce the documents.
3. To defendants LT. Maxwell and C/O Plocinik Produce for inspection all grievances filed against you at the facility management level within the last five years from 2014 to current date, including complaints from Co workers filed against you, to specified the grievances are filed by inmates.
4. To defendants LT. Maxwell and C/O Plocinik do you feel inmates grievances filed against you was adequately investigated and at anytime after investigation were you disciplined pursuant to any wrong doing, if so can you be specific as to each case and produce all documents pursuant to each matter?
5. At anytime within the last five years defendant LT. Maxwell and C/O Plocinik have you been under investigation at any administrative level or by any government agency outside in house administration, if so produce all documents pursuant to any such investigation.
6. LT. Maxwell, State the Procedure in effect during October 23rd 2017 Pursuant to evaluating and processing pursuant to an inmate that came from another State institution with claims of victimization by a sexual predator at his prior institution, if the procedure is in the form of documents Produce them.
7. To LT. Maxwell, what are some dangers a homosexual inmate with housing concerns face if he's put in a cell with a sexual predator, or a violent inmate that chose not want him in the cell? Can you be very specific?
8. LT Maxwell and C/O Plocinik during your time employed at SCI Huntingdon Correctional Facility, to your knowledge how many inmates on inmate sexual assault victimization has there been, how many of these cases were investigated and found substantiated, unsubstantiated, unfounded, produce all documents pursuant to the claims and the investigation and outcomes even if it's ongoing.
9. LT. Maxwell and C/O Plocinik at anytime did inmate Garbar Brown meet with you asserting safety concerns, at anytime did Brown tell you he was a homosexual?
10. LT Maxwell, Brown meet with you and state police asserting he was sexually assaulted by his cellmate Allen on GA cell 108, a short time after did you and the state police call inmate Allen and told him Brown's claims, after the meeting did you send inmate Allen back to G-Unit?



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- 10) LT. Maxwell Brown write up's or misconducts especially of assaultive and sexually assaultive behavior by inmate Allen while he has been an inmate with in the D.O.C., Brown is also asking for all complaints or grievances written by other inmates or staff member against inmate Allen during his 17 year stay as a D.O.C. inmate.
- 12) C/o Plocinik was you aware that Brown meet with LT. Maxwell and the State Police Pursuant to claims of sexual assault by his cellmate inmate Allen, if so produce all document Pursuant to the matter did you walk Brown to that meeting?
- 13) C/o Maxwell and C/o Plocinik Can you be specific as to what you know about the incidents Plaintiff stated in his complaint? Can you produce all documents as to witnesses interview statement from staff members.
- 14) Are you C/o Maxwell and C/o Plocinik currently a defendant in any pending lawsuits?
- 15) Produce for inspection all P.R.E.A. reports against you Mr. Plocinik and Mr. Maxwell while working at SCT Hurlburtson or any other correctional facility.
- 16) Mr. Maxwell How long were you a P.R.E.A. investigator and are you still a P.R.E.A., also would a inmate with a P.R.E.A. claim have to write a grievance by your policy?
- 17) What are your Separation Policy during a pending P.R.E.A. investigation, how is it different from an inmate reporting an inmate and an inmate reporting a guard, and regardless of the outcome of the investigation are there any policy in place to keep both parties separated?

*[Handwritten signature]*

# In The United States District Court For The Middle District Of Pennsylvania

Gartor kiki Brown

(Exhibit I)

V.

NO. 18-CV-01527

LT. Maxwell et al.,

## Plaintiff's Interrogatories Combine With Request For Production OF Documents

Pursuant to Rules 33 and 34, Fed. R. Civ. P., the Plaintiff submits the following interrogatories and requests for documents to defendant Fechtman. You are directed to answer each of the interrogatories under oath, and provide the Plaintiff with copies of each of the requested documents.

- 1) State the duties of defendant Fechtman, a official at SCI Huntingdon Correctional Facility, if those duties are set forth in any job descriptions or other documents. Produce the documents for inspection.
- 2) State the R.H.U. Policy after an inmate on inmate sexual assault or assault in which the cellmate was the actor, if the Policy is set forth in any documents. Produce them for inspection.
- 3) What do you know about the events stated in Plaintiff's complaint from 2/3/18 through current date, what did you see or hear, what was your actions if any, who are your witnesses be very detail and specific.
- 4) Where you ever on Post from 2/3/18 through 2/8/18 while inmate Brown was in a GA 108 Cell with inmate Allen, if so did you have any encounters with Brown or Allen at such time, be specific as to each encounter if any, were you passing out mail, were you call to the Cell, or doing punches, who was on shift at the supervisor level during this time?
- 5) At anytime did Brown predicate to you inmate Allen's actions and did Brown asked to be remove, are there any video tape recording that would support your claims?
- 6) State all witnesses if any that you may call on at Trial?
- 7) Have you been under investigation for any wrong done by in house Administration or outside Government Agency while employed at SCI Huntingdon, including but not limited to serious injuries, ignoring inmate on inmate assaults or sexual assaults, force, death, searches, also are you a defendant in any pending litigations?
- 8) At anytime during any encounter with Brown pursuant to his claims in his complaint against you, did you see to it that he got medical attention?
- 9) Have you had any other incidents with Brown after 2/8/18?
- 10) Do you have a criminal record, if so Produce document for inspection relating to what happened.
- 11) Do you currently work at SCI Huntingdon in the R.H.U. on 2 to 10 shift, if so are there any c/o of color working on your shift?
- 12) Produce for inspection all grievances written against you by inmates while employed at SCI Huntingdon.

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Ref: 1258613 pg 25 of 57 for GARTOR BROWN




# Certificate of Service

I hereby State that I am Gantor Brown, Plaintiff  
in this case & that on 3 day of  
8 20 20 a correct

Copy of Plaintiff's motion to compel discovery with brief & 10 pages  
in exhibits was put into the Prison's mail box & send to the  
address below.

United States District Court  
235 North Washington Ave  
P.O. Box 1149  
Scranton, PA 18501

Date 3/8/20

Gantor Brown NAB661   
Sgt Forest  
P.O. Box 307  
286 West King Drive  
Marionville, PA 16239